

REMARKS

Claims 1, 14, 20, 26-30, and 33-35 are currently pending in the present application, with Claims 1, 14, and 20 being amended. Reconsideration and reexamination of the claims are respectfully requested.

The Examiner rejected Claims 1, 14, 20, 26-30 and 33 under 35 U.S.C. § 103(a) as being unpatentable over Weinstock et al. (U.S. Patent No. 6,166,314) in view of “Emagic Notator Logic Sequencing software (Macintosh)” by Kim Aikin [hereinafter “Aikin”]. This rejection is respectfully traversed with respect to the amended claims.

As previously communicated, the present invention is directed to a method for editing musical performance data using a computer system having a display. As shown in Figure 2 of the present application, a plurality of notational layers (e.g., Tempo, Dyna, Joint, Modu, Accent) can be displayed in a parallel-stacked fashion wherein, in response to user instructions, execution icons can be graphically attached to each of the displayed layer. In accordance with the preferred embodiments, an execution icon, such as a tempo-related or accent-related execution icon, corresponds to execution-related data for imparting effects on the displayed musical performance data to thereby edit the given performance data.

Importantly, attachment of an execution icon causes the corresponding execution-related data to be incorporated into the musical performance data being edited. That is, the graphical drag and drop operation of an execution icon is not simply for purposes of composing music in a graphical sense, but actually imparts the intended effect into the performance data. Likewise, as discussed in the specification, the removal of an execution icon also at the same time deletes the corresponding execution-related data from the performance data (Applicants note that the removal of execution icons are not recited in the claims but are discussed herein only for discussion purposes).

As previously communicated, Weinstock is directed to an apparatus for correlating performance data onto a musical score, where the performance data is inputted in real time.

Applicants submit, and as the Examiner acknowledged, Weinstock does not contain any disclosure or suggestion of controlling a computer system to, in response to user instructions, attaching an execution icon at a user designated location on one of the displayed layers through operations such as the drag-and-drop procedure. Rather, all of the items displayed on the screen in Weinstock are displayed at a predetermined position pre-set by the software program.

Aikins fails to make up for the deficiencies of Weinstock with respect to the claims as amended. As also previously communicated, Aikin is directed to a software sequencer that includes a function called “NOTATOR LOGIC.” Figs. 1 and 2 of the article show icons that are representative of musical instruments that can be assigned to tracks. As previously discussed, although Aikins discusses a “Hyper Edit Window” for using the Notator Logic to graphically edit musical notes, Aikin does not speak to graphically attaching execution icons, or any icons, to a plurality of displayed layers whereby the attaching of the icons causes the corresponding execution-related data to be incorporated into the performance data, especially wherein the execution-related data represent articulation used in musical performance, as the claims have been amended to recite.

Again, the last full paragraph on page 123 only speaks to displaying instrument icons, not execution icons. While Aikin discloses, in Col. 2 of page 124, changing the mouse cursor into editing tools such as a scissor or an eraser for cutting/pasting functions, these editing tools certainly do not represent execution icons as recited in the claims such that, when attached to the musical score, cause the corresponding execution-related data to be incorporated to the actual performance data such that the execution-related data actually becomes a part of the performance data. Again, the execution-related data as recited in the claims represent articulation used in musical performance.

The Examiner noted in the Office Action that the claims do not sufficiently delimit the meaning of “execution icons” as recited. As discussed above, Applicants have amended the claims to further clarify the term as discussed above, and respectfully submit that the claims as

amended are not anticipated by, nor obvious in view of, the combination of Weinstock and Aikins.

In view of the foregoing, Applicants respectfully submit that all of the pending claims are in condition for allowance. An early allowance is solicited. If the Examiner believes it would further advance the prosecution of the present application, he is respectfully requested to contact the undersigned attorney.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Deputy to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 393032019700.

Respectfully submitted,

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